

**COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT**

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The Minutes

October 18, 2004

At 9:33 a.m., the court met in the Library and Courts Building to begin its court calendar session. Present were Scotland, Presiding Justice; Nicholson, Associate Justice; Raye, Associate Justice; and Rios, bailiff.

C040177 BUNCH, etc. v. HOFFINGER INDUSTRIES, INC. et al. and MCMASKER ENTERPRISES, INC.

Cause called. Timothy J. Buckley, III argued for appellants. Jay-Allen Eisen argued and Charter Miller Davis appeared only for respondent. Jeffrey G. Nevin argued and Dennis A. Brown appeared only for cross-complainant and respondent. Cause submitted.

At 10:39 a.m., the court recessed. At 10:45 a.m., the court reconvened with Sims, Associate Justice; Raye, Associate Justice; and Morrison, Associate Justice.

C045011 HILLENBRAND, INC. et al. v. INSURANCE COMPANY OF NORTH AMERICA/AETNA et al.

Cause called. Robert Drane argued for appellants. Robert J. Romero argued for respondents. Cause submitted.

At 11:06 a.m., the court recessed. At 11:12 a.m., the court reconvened with Davis, Associate Justice; Raye, Associate Justice; and Morrison, Associate Justice.

C045006 THE PEOPLE v. MORGAN et al.

Cause called. Leonard Klaif, court appointed counsel, argued and Laura Gordon, court appointed counsel, appeared only for appellants. Jesse Witt, Deputy Attorney General, argued for respondent. Cause submitted.

At 11:43 a.m., the court recessed. At 11:51 a.m., the court reconvened with Davis, Associate Justice; Hull, Associate Justice; and Butz, Associate Justice.

C043537 SINGH v. FREMONT MUTUAL FUNDS, INC.

Cause called. Jeffrey S. Kravitz argued for appellant. John Phillips argued for respondent. Cause submitted.

At 12:10 a.m., the court recessed until 9:30 a.m., Tuesday, October 19, 2004.

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The Minutes

October 18, 2004, continued

- C043149 THE PEOPLE v. TATE (Not for Publication)**
The judgment is affirmed.
NICHOLSON, J.
We concur: Blease, Acting P.J.
Raye, J.
- C043374 THE PEOPLE v. MALDONADO (Not for Publication)**
The judgment is modified as follows... As so modified, the judgment is affirmed. The trial court is directed to prepare a second amended abstract of judgment reflecting these modifications and to forward a certified copy of the second amended abstract to the Department of Corrections.
BUTZ, J.
We concur: Raye, Acting P.J.
Robie, J.
- C045277 THE PEOPLE v. JONES (Not for Publication)**
The judgment is affirmed.
ROBIE, J.
We concur: Sims, Acting P.J.
Nicholson, J.
- C046777 THE PEOPLE v. ROSSI (Not for Publication)**
The judgment is affirmed.
NICHOLSON, J.
We concur: Sims, Acting P.J.
Robie, J.
- C040523 PLACER RANCH, INC. v. WESTERN PLACER WASTE MANAGEMENT
AUTHORITY (Not for Publication)**
The January 7 and February 5, 2002 orders are reversed insofar as they award Placer Ranch attorney fees. Those orders are affirmed on the issue of costs. The matter is remanded to the trial court to enter a new order denying Placer Ranch's section 1021,5 motion for attorney fees and awarding Placer Ranch costs of suit in the amount of \$636,624.01. The parties shall bear their own costs on appeal.
HULL, Acting P.J.
We concur: Robie, J.
Butz, J.
- C041457 GRANDA v. FORD MOTOR COMPANY (Not for Publication)**
The judgment is affirmed.
HULL, J.
We concur: Scotland, P.J.
Butz, J.

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The Minutes

October 18, 2004, continued

**C043889 MANDELL v. THE REGENTS OF THE UNIVERSITY OF CALIFORNIA
(Not for Publication)**

The judgment is reversed and the matter remanded to the trial court with directions to vacate its order granting summary judgment and to enter a new order denying summary judgment but granting summary adjudication on all but plaintiff's age discrimination claim. The parties shall bear their own costs on appeal.

HULL, J.

We concur: Blease, Acting P.J.
 Robie, J.

**C045728 RAMOS, as Administrator, etc. v. HARKEY and YORK et al.
(Certified for Partial Publication)**

The judgment is affirmed. York and Hayward shall recover their costs on appeal. (Cal. Rules of Court, rule 27 (a).)

Robie, J.

We concur: Sims, Acting P.J.
 Morrison, J.

**C045994 In re N.F. et al.; SACRAMENTO COUNTY DEPARTMENT OF HEALTH AND
HUMAN SERVICES v. KRISTINA D. et al. and N.F. et al.
(Not for Publication)**

The orders of the juvenile court are affirmed.

BUTZ, J.

We concur: Sims, Acting P.J.
 Raye, J.

October 19, 2004

At 9:30 a.m., the court met in the Library and Courts Building to begin its court calendar session. Present were Scotland, Presiding Justice; Sims, Associate Justice; Robie, Associate Justice; and Facey, bailiff.

**C044555 FAIR POLITICAL PRACTICES COMMISSION v. SANTA ROSA INDIAN
COMMUNITY OF THE SANTA ROSA RANCHERIA**

Cause called. Charity Kenyon argued for appellant. Daniel F. Decker argued and Laurie L. Quigley appeared only for respondent. Cause submitted.

At 10:05 a.m., the court recessed. At 10:09 a.m., the court reconvened with Scotland, Presiding Justice; Nicholson, Associate Justice; and Morrison, Associate Justice.

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October 19, 2004, continued

C045022 THE PEOPLE v. OUBICHON

Cause called. Hilda Scheib, court appointed counsel, argued for appellant. Paul O'Connor, Deputy Attorney General, argued for respondent. Cause submitted.

At 10:30 a.m., the court recessed. At 10:32 a.m., the court reconvened with Scotland, Presiding Justice; Sims, Associate Justice; and Robie, Associate Justice.

C044442 ORTEGA v. STATE OF CALIFORNIA et al.

Cause called. Ana Ortega argued In Pro Per as appellant. A. Kay Lauterbach, Deputy Attorney General, argued for respondents. Cause submitted.

At 10:54 a.m., the court recessed. At 10: 55 a.m., the court reconvened with Sims, Associate Justice; Raye, Associate Justice; Morrison, Associate Justice.

At 11:15 a.m., the court recessed. At 2:00 p.m., the court reconvened with Raye, Associate Justice; Hull, Associate Justice; and Robie, Associate Justice.

**C044993 MODESTO CITY SCHOOLS v. EDUCATION AUDITS APPEALS PANEL and
OFFICE OF THE STATE CONTROLLER et al.**

Cause called. James J. Banks argued for appellant. Julie Weng-Gutierrez, Deputy Attorney General, argued for respondents. Cause submitted.

At 2:42 p.m., the court recessed until 9:30 a.m., Wednesday, October 20, 2004.

C042738 THE PEOPLE v. EZEBUNWA (Not for Publication)

The judgment is modified... As modified, the judgment is affirmed.

BUTZ, J.

We concur: Morrison, Acting P.J.

Hull, J.

C043952 THE PEOPLE v. BAYLESS (Not for Publication)

The judgment is affirmed.

HULL, J.

We concur: Scotland, P.J.

Sims, J.

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The Minutes

October 19, 2004, continued

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| C044103 | THE PEOPLE v. CIAPPINA
The judgment is affirmed.
HULL, J.
We concur: Sims, Acting P.J.
Butz, J. | (Not for Publication) |
| C044174 | THE PEOPLE v. FULTON, JR.
The judgment is affirmed.
HULL, J.
We concur: Davis, Acting P.J.
Robie, J. | (Not for Publication) |
| C044186 | THE PEOPLE v. COOLEY
The judgment is affirmed.
NICHOLSON, J.
We concur: Sims, Acting P.J.
Davis, J. | (Not for Publication) |
| C044758 | THE PEOPLE v. REESE III
The judgment is affirmed.
ROBIE, J.
We concur: Davis, Acting P.J.
Hull, J. | (Not for Publication) |
| C038336 | JARRATT et al. v. BACH
The judgment is affirmed. Plaintiffs are awarded their costs on appeal. If any were incurred.
HULL, J.
We concur: Davis, Acting P.J.
Robie, J. | (Not for Publication) |
| C043368 | ROSE v. GRAHAM et al.
The judgment is affirmed. Defendants are awarded their costs on appeal. (Cal. Rules of Court, rule 27(a).)
HULL, J.
We concur: Scotland, P.J.
Robie, J. | (Not for Publication) |

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October 19, 2004, continued

**C044192 ARMSTRONG v. REGENTS OF THE UNIVERSITY OF CALIFORNIA et al.
(Not for Publication)**

The judgment is affirmed. The Regents of the University of California are awarded their costs on appeal. (Cal. Rules of Court, rule 27 (a) (1).)

BLEASE, J.

We concur: Scotland, P.J.

Sims, J.

**C044795 THE PEOPLE v. SCHNEIDER
BY THE COURT:**

Appellant's petition for rehearing is denied.

SCOTLAND, P.J.

October 20, 2004

At 9:31 a.m., the court met in the Library and Courts Building to begin its court calendar session. Present were Scotland, Presiding Justice; Morrison, Associate Justice; Hull, Associate Justice; and Guzman, bailiff.

C045613 THE PEOPLE v. EMERSON

Cause called. Richard J. Krech argued for appellant. Aaron R. Maguire argued for respondent. Cause submitted.

At 9:58 a.m., the court recessed. At 10:03 a.m., the court reconvened with Scotland, Presiding Justice; Hull, Associate Justice; and Butz, Associate Justice.

C042787 SHEPPARD, JR. et al. v. FIDELITY NATIONAL TITLE COMPANY, et al.

Cause called. Allonn E. Levy argued for appellants. Kevin J. Sweeney argued for respondents Stuart et al. William A. O'Connell argued for respondent Fidelity National Title Company. Cause submitted.

At 10:48 a.m., the court recessed. At 10:50 a.m., the court reconvened with Blease, Associate Justice; Davis, Associate Justice; and Robie, Associate Justice.

C044681 WELLS FARGO BANK, N.A. v. ZINNEL

Cause called. Derian Eidson argued for appellant and submitted additional citations. Robert W. Lucas argued and Ronald R. Poirier appeared only for respondent. Cause submitted.

At 11:21 a.m., the court recessed. At 11:27 a.m., the court reconvened with Blease, Associate Justice; Davis, Associate Justice; and Butz, Associate Justice.

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October 20, 2004, continued

C043343 HENRIOD v. HUNSAKER SAFETY & SIGN, INC.

Cause called. Marjorie E. Manning argued for appellant. John C. Stein argued for respondent. Cause submitted.

At 11:58 a.m., the court recessed. At 11:59 a.m., the court reconvened with Sims, Associate Justice; Morrison, Associate Justice; and Robie, Associate Justice.

C045644 HANDYMAN CONNECTION OF SACRAMENTO, INC. v. SANDS etc., et al.

Cause called. Bruce D. Rudman argued for appellant. Patrick M. Kenady, Deputy Attorney General, argued for respondents. Cause submitted.

At 12:26 p.m., the court recessed until 9:30 a.m., Friday, October 22, 2004.

C045041 THE PEOPLE v. ARREDONDO (Not for Publication)

The judgment is modified... As modified, the judgment is affirmed.

BLEASE, Acting P.J.

We concur: Nicholson, J.
Raye, J.

C045490 In re CHRISTINA T. et al.; PLUMAS COUNTY DEPARTMENT OF SOCIAL SERVICES v. MARIA C. et al.

The judgment is affirmed.

HULL, J.

We concur: Davis, Acting P.J.
Robie, J.

October 21, 2004

C043209 THE PEOPLE v. BOLTON (Not for Publication)

The judgment is modified... As so modified, the judgment is affirmed. The trial court is directed to prepare an amended abstract of judgment, separately stating the sex crime fine and its associated penalty assessments, and to forward a certified copy to the Department of Corrections.

Bleese, Acting P.J.

We concur: Davis, J.
Butz, J.

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The Minutes

October 21, 2004, continued

C044444 KNOLL v. JORDAN et al. (Not for Publication)

The judgment against Vivian Jordan on the first through third causes of action is reversed. The judgment on the fourth cause of action (intentional infliction of emotional distress) is affirmed, but remanded to reassess damages, compensatory and punitive, if any.

The judgment against Ronald Jordan is affirmed as to the first cause of action (assault), but reversed on the remaining causes of action. The compensatory damages award of \$10,000 on the first cause of action is affirmed, and the matter is remanded to reassess punitive damages, if any, on this cause of action.

Costs on appeal are awarded to defendants, (Cal. Rules of Court, rule 27(a).)

NICHOLSON, Acting P.J.

We concur: Raye, J.
 Hull, J.

**C036614 THE PEOPLE v. VALDEZ
C037039 THE PEOPLE v. PERAZA**

BY THE COURT:

On or about August 1, 2003, respondent filed a petition for review as to consolidated appellate cases C036614 and C037039. The People v. Elisio Valdez and People v. Johnnie Ray Peraza. On October 1, 2003, the California Supreme Court granted review as to respondent's petition and as to a separate petition filed by appellant Elisio Valdez.

While these matters were under review by the California Supreme Court, this court inadvertently issued the remittitur in The People v. Johnnie Rae Peraza.

On the court's own motion, the remittitur issued October 15, 2003, in the matter of The People v. Johnnie Ray Peraza, C037039, is ordered recalled as it was issued prematurely. The San Joaquin County Superior Court is directed to forthwith return the remittitur to this court.

SCOTLAND, P.J.

October 22, 2004

At 9:31 a.m., the court met in the Library and Courts Building to begin its court calendar session. Present were Sims, Associate Justice; Morrison, Associate Justice; Hull, Associate Justice; and Guzman, bailiff.

C045707 In re HAO Y. on Habeas Corpus

Cause called. Martin S. McHugh argued for petitioner. Paul E. O'Connor, Deputy Attorney General, argued for respondent. Cause submitted.

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STATE OF CALIFORNIA
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The Minutes

October 22, 2004, continued

At 9:52 a.m., the court recessed until 9:30 a.m., Monday, October 25, 2004.

- C039846 THE PEOPLE v. KEITH (Not for Publication)**
The 1994 strike is stricken as to count II only, as stated in part VIII of the Discussion, and matter is remanded to the trial court for resentencing. In all other respects, the judgment is affirmed.
MORRISON, J.
We concur: Sims, Acting P.J.
 Raye, J.
- C045717 THE PEOPLE v. ROSS (Not for Publication)**
Defendant's conviction for violating Health and Safety Code section 11366 in case No. 03F1879 is reversed, the sentence imposed thereon and stayed is vacated, and the trial court is directed to dismiss that charge for lack of evidence. In all other respects, the judgment is affirmed.
SCOTLAND, P.J.
We concur: Morrison, J.
 Hull, J.
- C046645 THE PEOPLE v. KITTELSON (Not for Publication)**
The judgment is affirmed.
SCOTLAND, P.J.
We concur: Morrison, J.
 Butz, J.
- C045434 REED v. ALSTATE INSURANCE COMPANY (Not for Publication)**
The judgment is affirmed. Costs on appeal are awarded to respondent. (Cal. Rules of Court, rule 27(a).)
MORRISON, J.
We concur: Blease, Acting P.J.
 Robie, J.